In the Supreme Court of the United States

OCTOBER TERM, 1964

No. 143

CHARLES CHRAMEK, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

BRIEF FOR THE UNITED STATES IN OPPOSITION

OPINIONS BELOW

The opinion of the court of appeals (Pet. App. 1-5; R. 16-21)[1] has not yet been reported. The opinion of the district court (Pet. App. 6-14; I. 13-22) has not been reported.

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[1] The Transcript of Record is in three parts. The proceedings before the court of appeals are referred to with the prefix "R". The appellant's appendix is referred to with the prefix "I". The appellee's appendix is referred to with the prefix "II".

JURISDICTION

The judgment of the court of appeals was entered on April 14, 1964 (R. 23). A petition for rehearing en banc was denied on April 29, 1964 (R. 29). The Chief Justice extended the time for filing a petition for a writ of certiorari to and including June 3, 1964 and the petition was filed on June 1, 1964. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

QUESTION PRESENTED

Whether the evidence was sufficient to support petitioner's conviction for violation of the wagering tax laws.

STATEMENT

In the United States District Court for the District of Maryland, petitioner and three others were convicted after a trial before the court on three counts charging wagering tax violations (I. 5, 11-12). Petitioner was sentenced to a fine of $1,000 on Count one; a fine of $4,000 and nine months imprisonment on Count two, and a non-cumulative fine of $50.00 on Count three (I. 7). The court of appeals affirmed (R. 23).

The facts pertinent to petitioner's case may be summarized as follows: [2]

Federal officers with search warrants conducted simultaneous searches of three apartments in Suit-

[2] Appeals by the co-defendants were dismissed in the court of appeals by agreement of the parties (R. 7-13).

land, Maryland, which they had reason to believe were being used for an illegal gambling operation.

When the officers knocked at the apartment where petitioner was found, and announced their presence with a search warrant, they received no reply and had to kick down the door (II. 20). Inside they found petitioner and one of the other defendants standing near a table bearing numbers slips, "Armstrong" sheets, an adding machine, and other gambling paraphernalia, as well as two telephones. Slips recording various bets were clipped on a peg board hanging on the wall (I. 22-23 II. 16, 18-19, 20-22, 25). While the raid was in progress the telephone rang continuously, and although the majority of callers hung up because they did not recognize the voice of the agent who answered the telephone, two individuals actually placed wagers with the agent (II. 19, 25-26). The agents also found $1,000 in a brown canvas bag which they had previously seen petitioner carrying (II. 15, 21).

At this time petitioner claimed that he worked for a $75 weekly salary and that the $1,000 was for him to use to make payoffs at the conclusion of the day's work (I. 23-26). He admitted to the agent that he was aware of the requirement of a $50 gambling stamp, but explained that he did not have one because "if you purchase a $50.00 gambling stamp you immediately put the local police on the alert" (I. 25). None of the defendants had complied with the Federal wagering tax provisions (II. 1).

ARGUMENT

Petitioner assumes, as the basis for his argument, that the evidence failed to show that he was in the wagering business in a capacity which would subject him to liability for a wagering tax under this Court's decision in *United States* v. *Calamaro*, 354 U.S. 351. However, as the court below found, the evidence would plainly support an inference that he was at the very least a "writer" (*i.e.*, one who accepts wagers from bettors), and thus liable for the tax under *Calamaro*. The court below stated (Pet. App. 3-4):

> We think there was ample evidence to support the court's finding that Chramek was engaged in receiving wagers—if not for himself then on behalf of others. The fact that the agents observed him sitting at a table covered with gambling paraphernalia, with telephone ringing, justified, indeed demanded, the inference that he was receiving wagers. Chramek himself told the officers that he had been working there at the apartment for six months. There were two telephones, both of which continued to ring while the raid was in progress. When the agents answered the telephones, bets were placed. It was a reasonable inference that Chramek, who was in his shirtsleeves, was answering one of them and Waldow the other and that they were receiving wagers. Chramek's admissions to the agents showed a knowledge of the business greater than would be expected of a messenger. This evidence, together with his admission that he knew of his liability for the occupational tax and that he had not paid it for fear of exposing himself to prosecution by

local officers is sufficient evidence to support his conviction. *United States* v. *Woodson*, 303 F. 2d 49 (6 Cir. 1962).

CONCLUSION

For the foregoing reasons it is respectfully submitted that the petition for a writ of certiorari should be denied.

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